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JULIE A. RICHARDS, CLERK
US DISTRICT COURT, EDNC
BY ____ DEP CLK

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

United States, *ex rel.* RICKEY HOWARD, BRINGING THIS ACTION ON BEHALF OF THE UNITED STATES OF AMERICA,

Plaintiff,

v.

HARPER CONSTRUCTION COMPANY, INC., a California Corporation; FRAZIER MASONRY CORPORATION, a California Corporation; F-Y, INC., a California Corporation; CTI CONCRETE & MASONRY, INC., a California Corporation; MASONRY TECHNOLOGY, INC., a California Corporation; MASONRY WORKS, INC., a California Corporation; ABC CORPORATIONS 1 through 10; RUSSELL FRAZIER; and ROBERT A. YOWELL,

Defendants.

Case No.:7:12-cv-215-D

FIRST AMENDED COMPLAINT and JURY DEMAND

FILED IN CAMERA AND UNDER SEAL, PURSUANT TO 31 U.S.C. §3730(b)(2)

*****DO NOT PLACE IN PRESS BOX*****
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FIRST AMENDED COMPLAINT OF RELATOR RICKEY HOWARD

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NOW COMES PLAINTIFF-RELATOR, Rickey Howard, by and through his attorneys, Charles H. Rabon, Jr. of Rabon Law Firm, PLLC, Joel M. Androphy of Berg & Androphy, and Matt Abbott, of Abbott Law Firm, LLC, on behalf of the United States of America, and brings this action under 31 U.S.C. §§3729-3732 (the "False Claims Act") to recover all damages, penalties and other remedies established by the False Claims Act on behalf of the United States and himself, alleging and stating his First Amended Complaint against Defendants by way of restatement, and shows the Court as follows:

I. PARTIES

1. Plaintiff-Relator Rickey Howard ("Howard") is a resident of Craven County, North Carolina.
2. Defendant Harper Construction Company, Inc. ("Harper") is a California corporation with its corporate headquarters in San Diego, California. Harper may be served with process through its Registered Agent, Edward C. Muns, at 2241 Kettner Boulevard, Suite 200, San Diego, California 92101.
3. Defendant Frazier Masonry Corporation ("Frazier Masonry") is a California corporation with its corporate headquarters in Camarillo, California. Frazier Masonry may be served with process through its Registered Agent, Patrick Delaney, at 42306 10th Street West, Suite C, Lancaster, California 93534.
4. Defendant F-Y, Inc. ("F-Y") is a California company with its corporate headquarters in Carlsbad, California. F-Y may be served with process through its Registered Agent, Robert A. Yowell, at 1682 Marbella Drive, Vista, California 92081.
5. Defendant CTI Concrete & Masonry, Inc. ("CTI") is a California company with its corporate headquarters in Moreno Valley, California. CTI may be served with process

through its Registered Agent, Martine M. Guth, at 24385 Nandina Avenue, Suite B, Moreno Valley, California 92551.

6. Defendant Masonry Technology, Inc. ("Masonry Tec") is a California company with its corporate headquarters in Moreno Valley, California. Masonry Tec may be served with process through its Registered Agent, Martine M. Guth, at 24385 Nandina Avenue, Suite B, Moreno Valley, California 92551.

7. Defendant Masonry Works, Inc. is a California company with its corporate headquarters in Moreno Valley, California. Masonry Works may be served with process through its Registered Agent, Joel Guth, at 24385 Nandina Avenue, Suite B, Moreno Valley, California 92551.

8. Defendants ABC Corporations 1 through 10 ("ABC Corporations"), are fictitiously named corporations, to be made more specific during discovery.

9. Defendant Russell Frazier is a resident of the State of California. Russell Frazier may be served with process at his business address, which is 400 W. Ventura Boulevard, Suite 200, Camarillo, California 93010.

10. Defendant Robert A. Yowell is a resident of the State of California. He may be served with process at his residence address, which is 1682 Marbella Drive, Vista, California 92081.

II. JURISDICTION AND VENUE

11. This action arises under the False Claims Act, 31 U.S.C. §3729, *et seq*.

12. Jurisdiction over this action is conferred upon this Court by 31 U.S.C. §3732(a) and 28 U.S.C. §3130 in that this action arises under the laws of the United States.

13. Venue is proper in this district pursuant to 31 U.S.C. §3732(a), which provides that "any

action under §3730 may be brought in any judicial district in which the Defendant or, in the case of multiple Defendants, any one Defendant can be found, resides, transacts business, or in which any act proscribed by §3729 occurred." A substantial part of the proscribed acts, which are the subject of this action, occurred in the State of North Carolina within this judicial district. At all times material hereto, corporate defendants Harper Construction, Frazier Masonry, and F-Y regularly conducted business within the State of North Carolina, within this judicial district. Additionally, venue is proper in this district pursuant to 28 U.S.C. §1391(b)(2).

14. There are no bars to recovery under 31 U.S.C. §3730(e). Specifically, this suit is not based upon prior public disclosures of allegations or transactions in a criminal, civil, or administrative hearing, lawsuit or investigation or in a Government Accounting Office or Auditor General's report, hearing, audit, or investigation, or from the news media, and, or in the alternative, Relator Howard is an original source as defined therein. Relator Howard has direct and independent knowledge of the information on which the allegations are based. To the extent that any allegations or transactions herein have been publicly disclosed, Relator has knowledge that is independent of and materially adds to any publicly disclosed allegations or transactions. As required pursuant to 31 U.S.C. §§3730(b) and (e), Relator Howard has voluntarily provided information, oral and/or written, and has sent disclosure statement(s) of all material evidence, information and documents related to this Complaint, both before and contemporaneously with filing, to the Attorney General of the United States and the United States Attorney for the Eastern District of North Carolina. The disclosure statement(s) detail Relator Howard's

discovery and investigation of Defendants' fraudulent schemes and is supported by documentary evidence.

III. RESPONDEAT SUPERIOR AND VICARIOUS LIABILITY

15. Any and all acts alleged herein to have been committed by the Defendants were committed by officers, directors, employees, representatives or agents, who at all times acted on behalf of the Defendants and within the course and scope of their employment, such that Defendants are jointly and severally liable under legal theories of respondeat superior and vicarious liability. Further, the past, present and continuing relations and dealings by and between Defendants are so inextricably intertwined that, for purposes of this suit, some or all of them can and should be considered as a single business enterprise at law and equity.

IV. BACKGROUND ON GOVERNMENT CONTRACTING

A. Federal Contracting Process for Construction Projects

16. The United States Government, along with its departments and subdivisions, engages in contracting for services and products on a daily basis. Among these contracts, the Government contracts for work related to construction projects at various locations, such as military bases. The Government generally obtains contracts for large construction projects through a competitive negotiation process that typically involves two phases.

17. The process begins when the contracting officer issues a solicitation that delineates the scope of work and states the Government's requirements, including but limited to design criteria, budget parameters, and schedule. *See* F.A.R. §36.302. The contracting process involves two phases. In Phase I, the solicitation generally covers the technical aspects of the project. *See* F.A.R. §36.303-1. General contractors submit proposals for the project.

The Government then evaluates each offeror's technical competencies and other non-price/cost-related factors against stated evaluation criteria. The Government then selects the most highly qualified offerors, which generally does not exceed a maximum number specified in the solicitation and, in any case, does not exceed five offerors. Id.

18. The selected offerors then proceed to Phase II of the process and submit proposals that expound upon the technical aspects and include cost proposal data. See F.A.R. §§15.304, 36.303-2. If the amount of the construction contract at issue is expected to exceed $1,000,000, the offeror's Phase II proposal must include a Subcontracting Plan regarding the extent of participation of small business concerns, which constitutes the "socioeconomic evaluation factor" of the offeror's proposal. See F.A.R. §15.304(c)(4). Additionally, solicitations that offer a significant opportunity for subcontracting require the offerors' proposals to include a small business Subcontracting Plan as part of the evaluation. See F.A.R. §15.304(c)(5).

19. In awarding such large construction contracts, the Government is not seeking the lowest possible bidder to perform the work. Instead, the Government is seeking the contractor that can best deliver the full continuum of final product, consistent with all applicable goals, laws, rules and regulations applicable to the product, which expansively include certain requirements for the participation of Disadvantaged Business Enterprises through the requisite Small Business Subcontracting Plan. As established in various federal statutes and regulations, Disadvantaged Business Enterprises include business concerns that are Women Owned Small Business (WOSB's), Veteran Owned Small Business (VOSB's), Service Disabled Veteran Owned Small Business (SDVOSB's), and the like.

B. Small Business Concerns

20. 15 U.S.C. §637 provides the statutory authority for the participation by small business concerns, and disadvantaged business concerns, in the performance of contracts let by any Federal agency, including the Department of Defense. This law specifies that small businesses will have "maximum practical opportunities" to participate in contract performance consistent with efficient performance. The law further mandates the inclusion into the pertinent contracts of language so stating this policy. The relevant language is set forth in FAR 52.219-8 ("Utilization of Small Business Concerns"), which states:

> (a) **It is the policy of the United States that** small business concerns, **veteran-owned small business concerns, service-disabled veteran-owned small business concerns**, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns **shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency**, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.
>
> (b) **The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance.** The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.
>
> (c) Definitions. As used in this contract—
>
> "HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
>
> **"Service-disabled veteran-owned small business concern"—**

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern" means a small business concern that represents, as part of its offer that—

(1) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, Subpart B;

(2) No material change in disadvantaged ownership and control has occurred since its certification;

(3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

"Veteran-owned small business concern" means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

"Women-owned small business concern" means a small business concern—

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(emphasis added).

21. 15 U.S.C. §637 further provides the statutory authority for the FAR that implements the participation by small business concerns, FAR 19.7, which states, in part:

19.702 Statutory requirements.

Any contractor receiving a contract for more than the simplified acquisition threshold must agree in the contract that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(a) Except as stated in paragraph (b) of this section, Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) imposes the following requirements regarding subcontracting with small businesses and small business subcontracting plans:

(1) In negotiated acquisitions, each solicitation of offers to perform a contract or contract modification, that individually is expected to exceed $550,000 ($1,000,000 for construction) and that has subcontracting possibilities, shall require the apparently successful offeror to submit an acceptable subcontracting plan. If the apparently successful offeror fails to negotiate a subcontracting plan acceptable to the contracting officer within the time limit

prescribed by the contracting officer, the offeror will be ineligible for award.

22. Read together, 15 U.S.C. §637, FAR 19.7, and FAR 52.219-8 declare and mandate that it is the policy of the United States to allow maximum practical opportunities for small and disadvantaged businesses to participate in Government contracts. Subcontracting Plans, therefore, are mandatory for construction contracts exceeding $1,000,000.

23. Under the pertinent regulations, the Small Business Administration defines a small business concern as one that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Annual receipts of a concern which has been in business for less than three complete fiscal years is measured by the total receipts for the period the concern has been in business divided by the number of weeks in business, multiplied by 52. As described on the SBA website, "A small business concern is a small business that is not dominant in the field of operation for which it is bidding on a government contract, in addition to qualifying as a small business under the criteria and size standards in Title 13, Code of Federal Regulations, part 121 (13 CFR 121). Size standards have been established for types of economic activity, or industry, generally under the North American Industry Classification System (NAICS)." See http://www.sba.gov/content/size-standards, and 13 CFR 121.101, *et seq*.

24. A Small Business size standard is numerical and represents the largest a concern can be and still be considered a small business. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts (and for concerns that have been in business for less than three complete fiscal years, the total receipts for

the period the concern has been in business divided by the number of weeks in business, multiplied by 52). The SBA size standard limitation to qualify as a "Small Business Concern" for businesses in the Specialty Trade Contractors, Masonry Contractors subsector, is $14 million in average annual receipts. See, U.S. Small Business Administration, Table of Small Business Size Standards Matched to North American Industry Classification System Codes. http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf, and 13 CFR 121.101, *et seq.*

25. The SBA determines whether an entity qualifies as a small business concern by counting its receipts, employees, or other measure including those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit. 13 C.F.R. §121.103(a)(6). SBA's regulations on affiliation are contained in 13 C.F.R. §121.103.

26. "Affiliation" exists when one business controls or has the power to control another or when a third party (or parties) controls or has the power to control both businesses. Control may arise through ownership, management, or other relationships or interactions between the parties. If one or more officers, directors, managing members, or general partners of a business controls the Board of Directors and/or the management of another business the businesses are affiliates.

27. "Affiliation" also exists when there is an identity of interest between individuals or businesses, including family members. Individuals or firms that have identical (or substantially identical) business or economic interests may be treated as though they are affiliated unless they can demonstrate otherwise. Family members, persons with common investments, or firms that are economically dependent through contractual (or

other) relationships, are among those treated this way. Patterns of subcontracting, commingling of staff and/or facilities, and other veiled attempts to disguise the true nature of the relationship may evidence an identity of interest.

V. FACTUAL ALLEGATIONS

A. Overview of Defendants

28. Frazier Masonry is a full-service commercial masonry contractor specializing in brick, stone, and block structures, as well as concrete paving. Frazier Masonry is one of the largest masonry companies in the United States. Frazier Masonry was founded in 1974 by Don Frazier and was originally called "Don Frazier and Sons Masonry." In 1985, the company was renamed Frazier Masonry Corporation. In 1988, founder Don Frazier brought his two sons, Defendant Russell ("Russ") Frazier and Michael ("Mike") Frazier [not a defendant], into the family business as partners. Russ and Mike Frazier, who now serve as President and Vice President respectively, purchased their father's interest in the company in 2002. Frazier Masonry earns extensive revenues through its work on federal government construction projects, usually as a masonry subcontractor to prime or general contractors.

29. Harper Construction is ranked among the Top 400 construction companies, the Top 100 Design Build firms, and the Top 100 Green contractors in the United States. It is the second largest privately-held company in San Diego, California. It reported revenues in 2010 of approximately $360 million. Harper Construction earns substantial revenues in government contracting. Government contracts make up almost half of its contracts. Harper Construction recently completed several Bachelor Enlisted Quarters ("BEQs") at Camp Pendleton, California, at a contract price of $140 million – merely one of several

BEQ packages and other major construction projects that Harper Construction has built at Camp Pendleton since 2008. Harper Construction has performed government contracting work for the U.S. military all around the world and the United States, as well as substantial construction work for various state and local governments. The website www.governmentcontractswon.com reports that in excess of $1.5 billion worth of federal government contracts have been awarded to Harper Construction since 2002.

30. F-Y was incorporated in California on July 20, 2011. Defendant Robert Yowell is President of F-Y. Yowell is also an employee of Frazier Masonry, and he is married to Holly Frazier, the daughter of Frazier Masonry's owner Russ Frazier. FY, Inc.'s entity record in the System for Award Management ("SAM" www.sam.gov), reflects that the company registered for government business as a "Service Disabled Veteran Owned Business" with Robert Yowell listed as the point of contact. Defendant Harper Construction awarded contracts to F-Y in 2011 in the amount of $21,764,019.

31. CTI Concrete & Masonry was incorporated in California on December 30, 2006, as Concrete Tec, Inc., with Joel Guth listed as the initial Registered Agent. A Certificate of Amendment of Articles of Incorporation for Concrete Tec was filed with the California Secretary of State on March 2, 2010, changing the name of the company to CTI Concrete & Masonry, Inc. and listing Lonnie Herrell as PRESIDENT and Martine Guth as SECRETARY. On April 8, 2010, the company filed a Statement of Information with the California Secretary of State listing Martine M. Guth as CEO, SECRETARY, and CFO. CTI Concrete & Masonry, Inc.'s Fedmine Prime Contractor Profile lists the "Business Type" as being a "Women-Owned Business," with Lonnie Herrell and Joel Guth listed as the points of contact. CTI Concrete & Masonry, Inc.'s entity record in the System for

Award Management ("SAM" www.sam.gov) also reflects the company registered for government business as a "Woman Owned Business" with Lonnie Herrell and Joel Guth listed as the points of contact.

32. Masonry Technology, Inc. was incorporated on April 6, 1994, as Yocom Masonry, Inc. A Certificate of Amendment of Articles of Incorporation was filed with the California Secretary of State on October 26, 2000, changing the name to Masonry Technologies, Inc. and listing Joel Guth as PRESIDENT and Lori Sargent as SECRETARY. Another Certificate of Amendment of Articles of Incorporation was filed with the California Secretary of State on November 29, 2000, changing the name to Masonry Technology, Inc. On September 7, 2010, the company filed a Statement of Information with the California Secretary of State which listed Martine M. Guth as CEO, SECRETARY, and CFO. On May 10, 2011, the company filed a Statement of Information with the California Secretary of State again listing Martine Guth as CEO, SECRETARY, and CFO and adding Joel Guth as a DIRECTOR. Masonry Technology, Inc.'s entity record in the System for Award Management ("SAM" www.sam.gov), reflects the company registered for government business as a "Self Certified Small Disadvantaged Business" and a "Woman Owned Business" with Martine Guth and Joel Guth listed as the points of contact. The Masonry Technology, Inc. Fedmine Prime Contractor Profile also lists the company as being a "Self-Certified Small Disadvantaged Business" and a "Woman Owned Business" with Martine Guth and Joel Guth listed as the points of contact.

33. Masonry Works, Inc., was incorporated on September 19, 2008. By a Certificate of Amendment filed with the California Secretary of State on June 29, 2009, the company changed its name to Concrete and Masonry Works, Inc. and listed Jacob Lewis as

PRESIDENT and Martine Guth as SECRETARY. By a Certificate of Amendment filed with the California Secretary of State on August 24, 2010, the company changed its name *back to* Masonry Works, Inc. Masonry Works, Inc.'s entity record in the System for Award Management ("SAM" www.sam.gov), reflects the company registered for government business as a "Service Disabled Veteran Owned Business" with Martine Guth and Joel Guth listed as the points of contact. Masonry Works, Inc.'s Fedmine Prime Contractor Profile lists the company as being a "Service Disabled Veteran Owned Business" with Jacob Lewis - PRESIDENT, Martine Guth – SECRETARY and CFO, and Joel Guth - COO listed as the principals and Martine Guth and Joel Guth listed as points of contact. Concrete and Masonry Works, Inc. also registered with a Wounded Warriors Veterans Directory website (www.veteransdirectory.com) as a "Service Disabled Veteran Owned Small Business."

34. The individual Defendants, and each of them, were acting within the course and scope of their employment at all relevant times when they engaged in the conduct described in this Complaint.

B. Relator's Discovery of the Defendants' Fraudulent Scheme to Create Sham Businesses to Garner Government Contracting Work

1. Relator Discovers Defendants' Fraudulent Conduct While Working on the Courthouse Bay Project

35. Relator Rickey Howard (hereafter "Relator Howard") is a resident of the State of North Carolina. Relator Howard has been involved in the masonry trade and construction industry his entire career. Relator Howard was hired by Frazier Masonry at the end of 2011, and began working as a Project Manager at Frazier Masonry on January 4, 2012, and is currently still employed with that company.

36. Relator Howard's first assignment as Project Manager for Frazier Masonry was to lead two projects, the first being the P136 BEQ project at Marine Corps Air Station Cherry Point, and the second being the Tarawa Elementary School project at Marine Corps Base Camp Lejeune ("MCB Camp Lejeune"). The General Contractor on these projects is RQ Construction, through its Joint Venture with Kisaq, LLC (an Alaska LLC, which is ultimately owned by Alaska-native Americans [Inupiat Eskimo people]). The joint venture is known as Kisaq-RQ JV.

37. Russ Frazier also specifically hired Relator Howard to use his experience, local knowledge and business connections in North Carolina to help Frazier Masonry land masonry subcontracts on government projects on the East Coast, including federal government construction projects at military bases in Eastern North Carolina.

38. One of the masonry subcontract projects for which Frazier Masonry submitted a proposal was the Courthouse Bay project at MCB Camp Lejeune. Harper Construction is serving as the General Contractor for the Courthouse Bay Project, having been awarded that contract by NAVFAC on August 31, 2011. Relator Howard learned from Russ Frazier, President of Frazier Masonry, that Frazier Masonry had an excellent chance of being awarded the masonry subcontract because of long-standing contractor/subcontractor relationships between Harper Construction and Frazier Masonry in various government and military construction projects on the West Coast, including Prime/Sub relationships on BEQ projects at Camp Pendleton in California, and elsewhere out west.

a. Scope of Courthouse Bay Project

39. MCB Camp Lejeune, which opened in September 1941, is the largest Marine Corps Base on the East Coast, and occupies approximately 246 square miles in Onslow County,

North Carolina. MCB Camp Lejeune is home base for the II Marine Expeditionary Force, 2d Marine Division, 2d Force Service Support Group, and other combat units and support commands, which amount to some 47,000 active Marine and Sailors, exclusive of the dependent, retiree and civilian employee population which, altogether, totals nearly 150,000 people.

40. On October 17, 2006, the United States Congress authorized an increase in end strength of the United States Marine Corps (USMC) from 175,000 to 179,000 Marines. The majority of the personnel increase is to become permanently stationed at MCB Camp Lejeune.

41. In connection with that increase in force, and at the same time to upgrade the existing infrastructure at MCB Camp Lejeune, Congress authorized approximately $3.53 billion of military construction at the base, to be paid from fiscal year budgets 2008 through 2012, with completion of all construction scheduled for calendar year 2015.

42. One substantial area of new construction taking place at Camp Lejeune is the Courthouse Bay area of the base, and includes the design and construction of Bachelor Enlisted Quarters, referred to as "BEQs", as well as other buildings.

43. In early 2011, Naval Facilities Engineering Command Mid-Atlantic in Norfolk, Virginia ("NAVFAC Mid-Atlantic") issued a solicitation [Solicitation Number: N40085-11-R-4009] for the construction of BEQs at Courthouse Bay area of MCB Camp Lejeune. A copy of the Original Synopsis for NAVFAC Mid-Atlantic Solicitation Number: N40085-11-R-4009 is attached hereto as **Exhibit 1**.

44. NAVFAC Mid-Atlantic described the project as a "Design/Build contract to construct four 100-room, multi-story bachelor enlisted quarters (BEQs) . . . ." A true copy of the

NAVFAC Mid-Atlantic Description of Solicitation Number: N40085-11-R-4009 is attached hereto as **Exhibit 2.** The BEQs are often referred to as the P-1251 and P-1254 BEQs. *See* **Exhibit 2**.

45. Harper Construction submitted a proposal to NAVFAC Mid-Atlantic in response to Solicitation Number: N40085-11-R-4009. On August 31, 2011, Harper Construction was awarded the contract with a value of $70,986,817. *See* **Exhibit 1**.

b. Harper Construction Awards Masonry Subcontract to *Frazier Masonry*, and the Companies Then Agree to Use F-Y, a Sham "Small Business" Corporation to Meet Subcontracting Plan Requirements

46. As part of the negotiation process, Phase II of Harper Construction's proposal for the Courthouse Bay project [and the basis upon which it was awarded the Contract] included a Subcontracting Plan, representing that a defined amount of the contract would be subcontracted and that specified percentages of the subcontracting work would be awarded to "small business concerns" including HUBZone, WOSB, SDB, VOSB, and SDVOSB concerns. In or around April 2012, Harper Construction began accepting bids for the masonry subcontract masonry work on the Courthouse Bay BEQs (P-1251 and P-1254 BEQs).

47. In April 2012, Frazier Masonry prepared and submitted a proposal for the masonry subcontract work on the Courthouse Bay BEQs. A true copy of Frazier Masonry's bid proposal is attached hereto as **Exhibit 3**. Russ Frazier explained to Relator Howard that Frazier Masonry had an excellent chance to be awarded the masonry subcontract based on Frazier Masonry's prior relationship with Harper Construction at numerous federal government construction projects and private projects on the West Coast. Russ Frazier stated that Harper Construction is Frazier's "best customer" on the West Coast.

48. On April 12, 2012, Relator Howard attended a meeting with Russ Frazier and Andy Anello (Courthouse Bay Project Manager for Harper Construction) regarding the Courthouse Bay project. During the meeting, Andy Anello stated that a minority-owned company would need to be used in order for Frazier Masonry to get the masonry subcontract. Russ Frazier explained that he "could use his disabled-veteran owned small business company" called F-Y, Inc. ("F-Y") that he had used from time-to-time on Government projects.

49. Four days later, when Relator Howard expressed concerns to Russ Frazier regarding Frazier Masonry's "use" of F-Y to "get the contract," Russ Frazier responded that "It will be the last thing they [the Government] will be looking for on the East Coast." Russ Frazier continued with his reasoning to justify the sham, saying: "All the liability will fall on the General Contractor [Harper] and on F-Y, none on Frazier. We do it all the time on the West Coast. I don't know how much it is done on the East Coast."

50. On April 20, 2012, Harper's Project Manager Andrew Anello informed fellow co-workers, Brian Crowley (Design Manager at Harper Construction) and Kenton Ahrentzen (also an employee of Harper Construction), that Harper Construction "made a deal with Frazier Masonry for the BEQ project at Camp Lejeune." A true copy of the April 20, 2012 email from Andrew Anello to various team members is attached hereto as **Exhibit 4**.

51. Shortly thereafter, on April 24, 2012, Relator Howard became increasingly more concerned about Frazier Masonry's "arrangement" with Harper Construction after receiving a forwarded e-mail from Russ Frazier in which Andy Anello informed Russ Frazier that Harper was "close to an agreement with ThysennKrupp Elevators" for the

Courthouse Bay project, but they were a large business and Harper "need[s] to contract them as a small biz." Anello then proceeded to inquire if Frazier Masonry had ever taken on an elevator contract. A true copy of the April 24, 2012 e-mail from Russ Frazier to Relator Howard is attached hereto as **Exhibit 5**. Frazier Masonry ultimately decided not to perform the elevator contract.

52. Over the next several days, the Harper Construction and Frazier Masonry team members exchanged e-mails regarding the design requirements for the BEQs and changes to the masonry plan and setting up a "roundtable" meeting between the companies to discuss the scope of the masonry subcontract for Courthouse Bay and the minority participation via subcontracts needed on the project in order to fulfill the Subcontracting Plan. A true copy of these e-mail exchanges is attached hereto as **Exhibit 6**.

53. On May 1, 2012, Relator Howard attended a roundtable meeting between Harper Construction and Frazier Masonry at the Harper Construction jobsite trailer at Camp Lejeune. At the meeting, Russ Frazier pulled Relator Howard into a separate closed-door meeting in which Anello and Frazier agreed that material for the project would be bought through the minority company, F-Y, but all the fees would stay in a Frazier contract. Anello and Frazier discussed how the total $9.2 million contract would be split into two components: $4.5 million to F-Y for material and $4.7 million to Frazier for labor. After the meeting, Russ Frazier and the rest of the Frazier Masonry team flew back to the West Coast, leaving Relator Howard to manage the project.

54. At this point, it was clear that Frazier Masonry was using F-Y as a sham "small business" company (either as VOSB or a SDVOSB) in order to "get" the masonry subcontract. The representations regarding F-Y's "small business" status were false and fraudulent in that

F-Y was not, and could not qualify to be, a "small business" under the SBA's "Affiliation Rules." Frazier Masonry and F-Y are clearly affiliated companies, and as such, under the SBA Affiliation Rules set forth in 13 C.F.R. §121.103, all the revenues of Frazier Masonry would have to be attributed to F-Y in determining whether F-Y was a legitimate small business, and plainly, it was not.

55. Specifically, the SBA Affiliation Rules say, among other things, that "In determining the concern's size, SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit." 13 C.F.R. §121.103(a)(6).

56. SBA Affiliation Rules also bar affiliation based on "Identify of Interest." This Affiliation prohibition states: "*Affiliation based on identity of interest.* Affiliation may arise among two or more persons with an identity of interest. Individuals or firms that have identical or substantially identical business or economic interests (such as family members, individuals or firms with common investments, or firms that are economically dependent through contractual or other relationships) may be treated as one party with such interests aggregated. Where SBA determines that such interests should be aggregated, an individual or firm may rebut that determination with evidence showing that the interests deemed to be one are in fact separate." 13 C.F.R. §121.103(f). Not only is Rob Yowell a long-time employee and Project Manager of Frazier Masonry [and evidently still is], as of May 5, 2012 – the wedding date of Rob Yowell and Holly Frazier – Yowell is Russ Frazier's son-in-law. In fact, the only two employees of F-Y are Russ Frazier's daughter and son-in-law, Rob and Holly Frazier Yowell.

57. SBA Affiliation Rules also bar affiliation based on "Newly Organized Concerns." This Affiliation prohibition states: "*Affiliation based on the newly organized concern rule.* Affiliation may arise where former officers, directors, principal stockholders, managing members, or key employees of one concern organize a new concern in the same or related industry or field of operation, and serve as the new concern's officers, directors, principal stockholders, managing members, or key employees, and the one concern is furnishing or will furnish the new concern with contracts, financial or technical assistance, indemnification on bid or performance bonds, and/or other facilities, whether for a fee or otherwise. A concern may rebut such an affiliation determination by demonstrating a clear line of fracture between the two concerns. A "key employee" is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern." 13 C.F.R. §121.103(g). F-Y had been incorporated less than a year previously [on July 18, 2011]. Yet, in that first less-than-half year, it did some $21.7 million worth of business with Harper Construction.

58. Based on that first contract with Harper Construction, F-Y simply could not qualify as a "Small Business." See 13 C.F.R. §121.104(c)(2).

59. At this point, Relator Howard learned from Russ Frazier that he owned F-Y. The "F" in the name of the company stands for Frazier, and the "Y" stands for Yowell. Rob Yowell was a Project Manager at Frazier Masonry and was listed as the sole member of F-Y, a California corporation formed on July 18, 2011, with its primary place of business listed as 6965 El Camino Real, Suite 105-618, Carlsbad, California 92009. This address

belongs to a UPS Store/copy shop. F-Y's Registered Agent address is 1682 Marbella Drive, Vista, California 92081 – which is Yowell's home address.

60. Other than Rob Yowell, the only other employee who has worked for F-Y is Holly Frazier, the daughter of Russ Frazier who married Rob Yowell on May 5, 2012, and who resigned from Frazier Masonry nine days later on May 14, 2012, to work with her husband at F-Y.

61. On May 8, 2012, a week after the roundtable meeting, Russ Frazier told Relator Howard that two contracts would be signed: one with Frazier Masonry for labor and one with F-Y for materials. Russ Frazier then instructed Relator Howard to make material orders with masonry vendors under Frazier Masonry, and that Frazier Masonry would guarantee payment of the material orders. Russ Frazier explained to Relator Howard that the Purchase Order commitments would be submitted to the vendors later through F-Y. To allay Relator Howard's concerns, Russ Frazier then stated: "Don't worry Rickey, we do this all the time and have two to three deals like this going on currently with Harper." Harper Construction has in fact used Frazier Masonry as its masonry subcontractor on most of the work done by Harper Construction at Camp Pendleton. Based on what Russ Frazier was saying, the Camp Pendleton work was "passed through" sham small business entities (either F-Y, or some other corporation – identified here as ABC Corporations 1 through 10) that were owned or controlled by, or affiliated with Frazier Masonry.

62. The next day, Debbie Wall, Controller for Frazier Masonry, sent an e-mail to the Frazier Masonry employees and Rob Yowell at his F-Y e-mail account changing the Job Number for the Courthouse Bay project from 051203 to 551202.

63. Almost a week later, on May 14, 2012, according to Russ Frazier, the *entire* subcontract was then to be executed between Harper and F-Y, as opposed to the two separate contracts discussed earlier. F-Y would then, in turn, subcontract with Frazier for the labor. A Payment and Performance Bond (Bond Number 6070996) for the Courthouse Bay project was issued bearing the date of May 17, 2012, on behalf of F-Y as Principal through Westfield Insurance Company, as Surety, in the amount of $9,157,220.00. The bond states that F-Y entered into a subcontract with Harper on May 8, 2012, although the subcontract with F-Y was not actually executed until May 14, 2012. A true copy of the Payment and Performance Bond issued on behalf of FYI, as Principal, is attached hereto as **Exhibit 7**. F-Y, in its own right, had never submitted a bid or proposal for the masonry subcontracting work to Harper Construction.

64. In furtherance of the scheme, Frazier Masonry represented to material vendors that Frazier Masonry would guarantee F-Y's material purchases. On May 21, 2012, Relator Howard attended a meeting with Russ Frazier and Parrish Hoffman, a sales representative for Adams Concrete, the largest local concrete vendor, about the purchase of building materials for the Courthouse Bay project; the details of this meeting were later memorialized in an e-mail. A true copy of the May 24, 2012 e-mail from Holly Frazier Yowell is attached hereto as **Exhibit 8**.

65. At the meeting on May 21, 2012, Russ Frazier explained to Hoffman that Harper Construction was "forcing" Frazier Masonry to perform the masonry subcontract using a minority company, F-Y, which was owned by Rob Yowell, Frazier's son-in-law. Russ Frazier further stated that Frazier Masonry would "guarantee everything," and that Harper Construction would issue joint checks for payment to "F-Y, Inc. and Adams

Concrete" for the materials. Russ Frazier stated that all Purchase Orders should list F-Y, but that the bills and invoices for materials should be sent to Frazier Masonry's North Carolina office for processing and coding, and that the payments would be made from California. Russ Frazier further stated that Frazier Masonry would fill out a credit application for F-Y. On May 22, 2012, Russ Frazier proposed the same deal to S.T. Wooten, another concrete vendor, in discussing the purchase of approximately $700,000 worth of concrete material for the Courthouse Bay project.

66. That same day, May 22, 2012, Russ Frazier directed Relator Howard to open a North Carolina Post Office Box in the name of Frazier Masonry, the address of which is P.O. Box. 397, Jacksonville, NC 28541-0397. The next day, Holly Frazier Yowell sent an e-mail to Mark Horwedel [a Senior Project Manager with of Frazier Masonry, and who happens to be Russ Frazier's brother-in-law] requesting the P.O. Box information "ASAP." Holly Yowell stated that "Russ informed [her] that he would like the F-Y Inc vendor invoices mailed directly to your [Frazier's] office so that Sky can code them, have you approve them, and then mail them to me to post in F-Y Inc. accounting." A true copy of the May 23, 2012 e-mail from Holly Yowell is attached hereto as **Exhibit 9**. In fact, at present, all mail, invoices and billings of F-Y at the Camp Lejuene Courthouse Bay Project are being sent to Frazier Masonry's N.C. Post Office Box.

67. Around this same time, Relator Howard learned that Russ Frazier's brother-in-law, Mark Horwedel, would be coming from the West Coast to act as the "Official" Project Manager of the Courthouse Bay Project on behalf of Frazier Masonry, but that Relator Howard would remain "in charge" of the everyday operations at Courthouse Bay. On May 24, 2012, Relator Howard discussed the mechanics of the arrangement between

Frazier Masonry and F-Y with Horwedel, so that Relator Howard would be able to deal with any questions relating to the material vendors arrangements while Horwedel was out of town. Horwedel explained that Frazier Masonry would act as a "Second Tier" subcontractor to F-Y on the project, and that "this is how we've had to handle minority participation several times over the last seven years."

68. Later that day, Relator Howard was contacted by Parrish Hoffman of Adams Concrete regarding the Courthouse Bay project. Hoffman explained that the credit manager at Adams Concrete "did not like" how the paperwork on the Courthouse Bay project was submitted originally by Frazier Masonry and then changed to F-Y, which was an "unknown company." Hoffman further advised Relator Howard that Adams Concrete might deny credit to F-Y for materials purchases. Relator Howard relayed the problem to Horwedel, who told him that Holly Yowell would provide Relator Howard with the information and documents concerning the transactions and set up for the materials purchase from Adams Concrete. The purchase of materials from Adams Concrete on this job are expected to be in excess of $3 million.

69. Shortly thereafter, Relator Howard was copied on an e-mail from Holly Frazier Yowell to Hoffman at Adams Concrete requesting that Adams Concrete forward invoices for materials to Frazier Masonry's North Carolina P.O. Box. See **Exhibit 9**.

70. The next day, Hoffman informed Relator Howard that Harper Construction was refusing to issue joint checks to F-Y and Adams Concrete. Relator Howard then relayed this information to Russ Frazier, who in turn stated that "My job is to protect Harper, and I'll do whatever it takes to personally guarantee Adams Concrete receives payment through Frazier. I will handle everything on Tuesday [May 29, 2012]."

71. On May 29, 2012, Hoffman informed Relator Howard that Russ Frazier agreed to provide a payment guarantee to Adams Concrete on behalf of F-Y, and that an agreement in writing to this effect was to be prepared and submitted by Frazier Masonry to Adams Concrete.

72. Although Harper Construction subcontracted with F-Y for the masonry work, the entirety of performance and management of the masonry subcontract was, and is being done, entirely done by Frazier Masonry employees. The only persons who were ever "employed" by F-Y were Rob Yowell (who simultaneously is also a Project Manager for Frazier Masonry), and Holly Frazier Yowell – Russ Frazier's daughter and Rob Yowell's new wife. Almost all of the management and paperwork that was done or issued for F-Y was in fact done or issued by Frazier Masonry employees. Both F-Y and Frazier Masonry occupy the same field office at the Courthouse Bay project, and all invoices for materials on the Courthouse Bay project were (and are being) sent to Frazier Masonry's North Carolina P.O. Box and coded by a Frazier Masonry employee before being sent to F-Y for "accounting purposes."

73. No "employee" of F-Y, Inc. has ever been to Camp Lejeune or set foot on the base in the performance of the Courthouse Bay BEQ masonry subcontract between F-Y, Inc. and Harper Construction.

74. F-Y's subcontract with Frazier Masonry to perform the Courthouse Bay masonry subcontract work (in essence a "pass through") is a sham, because this arrangement is not a legal and legitimate method of complying with the "small business" part of Harper Construction's Subcontracting Plan.

2. Relator Learns that Defendants' Fraudulent Conduct is Widespread

75. Russ Frazier's brother-in-law (and Frazier Masonry's nominal "Senior Project Manager") Mark Horwedel admitted to Relator Howard in a conversation on May 24, 2012, that Frazier Masonry had engaged in similar schemes as described above several times over the past seven years. In a later conversation, Horwedel specifically told Relator Howard that Frazier Masonry had used the same set-up with F-Y on a BEQ project at Camp Pendleton in California. More specifically, Horwedel has stated to Relator Howard that Frazier Masonry has utilized various companies, owned and/or controlled by Frazier Masonry and/or Russ Frazier that amount to "sham" small businesses, to fulfill Subcontracting Plan requirements on various federal government construction projects on the West Coast, and further that several of the material suppliers for these entities were aware of the fraudulent nature of these sham businesses and that the material suppliers were paid premiums or kickbacks for supplying materials to the sham small businesses – on jobs that were actually performed by Frazier Masonry.

76. Harper Construction has been awarded, and has completed, numerous very large construction projects at Camp Pendleton since at least 2007. It is reported that F-Y was paid some $21.7 million in subcontract revenues by Harper Construction in 2011, even though F-Y was not even incorporated until July 18, 2011. There were other "sham small businesses" used to facilitate these schemes prior to the formation of F-Y in July 2011, which are identified herein as ABC Corporations 1 though 10.

77. As of November 26, 2012, Frazier Masonry's Job Report contained numerous jobs for which the entity [to which Frazier Masonry was supposedly the subcontractor, or the "second tier subcontractor"] was F-Y, Inc., CTI Concrete & Masonry, Inc., CTI Concrete

& Masonry Tec, or Masonry Works. A true copy of Frazier Masonry's Job Report is attached hereto as **Exhibit 10.**

78. In fact, Frazier Masonry owns and controls F-Y, Inc., as well as CTI Concrete & Masonry, Inc., CTI Concrete & Masonry Tec, and Masonry Works, and these companies exist only as "sham small businesses" to fulfill Small Business Plan Subcontracting requirements for large general contractors such as Harper Construction on government construction projects.

79. CTI Concrete & Masonry, Masonry Technology, and Masonry Works have numerous connections to Frazier Masonry indicating that those companies are owned and controlled by Frazier Masonry to operate as "sham small businesses."

80. A Statement of Information that was filed with the California Secretary of State on behalf of CTI Concrete & Masonry on December 27, 2011, was signed by DEBBIE WALL, CONTROLLER. Debbie Wall is also the Controller for Frazier Masonry.

81. A Google search of "CTI Concrete & Masonry" produces an address of 400 West Ventura Boulevard, Camarillo, California, the business address of Frazier Masonry. The Website Registrant Contact for the CTI website (www.cti-cm.com) is DEBBIE WALL. Her address is 400 West Ventura Boulevard, Camarillo, California [Frazier Masonry], and her email address is her email address at Frazier Masonry. http://who.godaddy.com/whois.aspx?domain=cti-cm.com&prog_id=GoDaddy.

82. The "Dun and Bradstreet Credibility Corp" business directory website lists CTI's address as 400 W. Ventura Blvd #210, Camarillo, California 93010, the business address of Frazier Masonry. http://www.dandb.com/businessdirectory/cticoncretemasonryinc-camarillo-ca-24783036.html.

83. Within documents on the jobsite at Courthouse Bay was found a blank copy of CTI Concrete & Masonry, Inc. letterhead, among other Frazier Masonry documents. This letterhead lists the company's address as 400 W. Ventura Blvd #210, Camarillo, California 93010. This is the business address of Frazier Masonry.

84. On December 3, 2010, CTI Concrete & Masonry applied for approval to do business in the state of Nevada. Their General Contractor license was qualified by Zachary Michael Frazier, the son of Frazier Masonry co-owner Michael Frazier (and the nephew of Russell Frazier).

85. The September 7, 2010 Statement of Information filed with the California Secretary of State on behalf of Masonry Technology lists the company's street address as 24385 Nandina Ave., Suite B, Moreno Valley, CA. This is also the address of CTI Concrete & Masonry, Inc. and Masonry Works, Inc. on their corporate filings [although CTI now purports to have the same address as Frazier Masonry, 400 W. Ventura Blvd #210, Camarillo, California 93010].

86. A Statement of Information filed with the California Secretary of State on behalf of Masonry Works, Inc. on February 13, 2012, was signed by DEBBIE WALL, who is the Controller for Frazier Masonry.

87. In its registration with www.veteransdirectory.com, Concrete and Masonry Works, Inc. lists its address as 400 W. Ventura Blvd, Camarillo, CA 93010. This is the business address of Frazier Masonry.

88. Documents appearing to be invoices and found among Frazier Masonry's records show "Concrete Technology Incorporated" (CTI Concrete & Masonry) supplying materials on the Courthouse Bay BEQ jobs. The documents show the address of the company as "PO

Box 7389, Moreno Valley, CA 92552", the same address as the mailing addresses listed on CTI's April 8, 2010 and December 27, 2011 Statements of Information filed with the California Secretary of State. A true copy of these documents is attached hereto as **Exhibit 11**.

89. As of November 26, 2012, at least 4 separate jobs appearing on Frazier Masonry's Job Report represent sham contracts between Harper Construction and F-Y, Inc. for the purpose of fulfilling or satisfying Small Business Plan Subcontracting requirements on various large contracts that Harper Construction has with the federal government, both at Camp Lejeune, North Carolina, and Camp Pendleton, California. These include the following:

Frazier Masonry Job #	**Project Name and Location**	**General Contractor**	**Sham Subcontractor**	**Original Value of Prime Contract**
551202	P1251/P1254 BEQ Courthouse Bay, Camp Lejeune, NC	Harper	F-Y, Inc.	$67,681,224[1]
551110 and 581106	P-1069 Recruit Barracks, Camp Pendleton, CA	Harper	F-Y, Inc.	$48,523,000[2]
551205 and 581201	BEQ's P1109 & P1113, Camp Pendleton, CA	Harper	F-Y, Inc.	$68,696,948[3]
551206 and 581202	CNATT Aviation Training Fac, Camp Pendleton, CA	Harper	F-Y, Inc.	$40,228,805[4]

[1] Federal Business Opportunities: https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=d1ee30426973b25cfa00a12740b6ccc0
[2] U.S. Department of Defense: http://www.defense.gov/contracts/contract.aspx?contractid=4371
[3] Federal Business Opportunities: https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=d94d42b86d66c7384bfbbd274af1a27b
[4] Federal Business Opportunities: https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=4b994a2a7943f805ab85a70dae263441

90. On December 24, 2012, during the pendency of this action and while the allegations herein were being actively investigated, Harper Construction abruptly and unilaterally terminated all contracts between itself and F-Y, Inc., the "sham small business" owned and controlled by Frazier Masonry. Harper Construction supposedly has terminated these contracts "for convenience." As a result, Frazier Masonry has been required to forthwith wind down its operations on these contracts at Camp Lejeune and Camp Pendleton, and to remove all of its property and personnel from the jobsites.

91. The total value of the remaining work to be done on the terminated F-Y, Inc. contracts – which were being performed by Frazier Masonry – is approximately $20 million. The added costs and expenses to Harper Construction due to these terminations is likely to reach or exceed $10 million.

92. In further consequence of Harper Construction's abrupt termination of all contracts with F-Y, Inc., Harper Construction has instructed its personnel to have no contact whatsoever with Russ Frazier.

93. Russ Frazier has made statements that the reason Frazier Masonry is being thrown off these projects is due to the fact that Harper Construction "had a problem" with F-Y, Inc., as if Russ Frazier had nothing to do with F-Y, Inc. In fact, Russ Frazier and/or Frazier Masonry owns and controls F-Y, Inc., and has done business in this fashion (i.e., through sham small businesses) with Harper Construction and other large construction firms working on federal projects, for many years.

94. On December 26, 2012, Russ Frazier sent an email to certain personnel within Frazier Masonry which stated, in part: "Guys, Please be advised that Harper has terminated the contract with FY Inc., which is who we were performing work for, on the CHB project

effective 12-21-12. Harper has stated that they do not intend to subcontract the work to be completed with Frazier as they do not meet the small business contracting requirements." A true copy of this December 26, 2012 email is attached hereto as **Exhibit 12**.

95. At all times relevant, F-Y, Inc. was in fact owned and controlled by Russ Frazier individually, or by Frazier Masonry. At all times relevant, F-Y was not, and could not qualify to be, a "small business" under the SBA's "Affiliation Rules," including during the duration of performance of the Courthouse Bay BEQ project, and as of the time of Russ Frazier's December 26, 2012 email.

96. In addition to the contracts referenced in paragraph 73 above, Frazier Masonry has also been involved in the performance of no less than 8 concrete and masonry contracts on federal construction projects in the western United States for which Harper Construction was the general contractor. These projects include the following:

Project Name and Location	**General Contractor**	**Original Value of Prime Contract**	**Award Date**
BEQ Package #1 – BEQ P-097, P-115, P-170, P-1000, P-1003, Camp Pendleton, CA	Harper	$114,580,321[5]	9/23/2008
BEQ Package #5 – BEQ P-043, P-242, P-1112, P-160, Camp Pendleton, CA	Harper	$124,372,557[6]	10/6/2009
BEQ Package #6 – BEQ P-046, P-357, P-1114, Camp Pendleton, CA	Harper	$81,821,721[7]	9/29/2009
BEQ P-206 & P-028, Camp Pendleton, CA	Harper	$43,747,265[8]	9/27/2007
P-601 Child Development Center, Camp Pendleton, CA	Harper	$10,538,675[9]	9/29/2009
P-038 Weight Handling Shop, Camp Pendleton, CA	Harper	$5,907,265[10] [Included four option years for additional work, which would have increased the contract value]	1/24/2005
BEQ P-991, Camp Pendleton, CA	Harper	$14,940,000[11] [Estimate]	2007 [Estimate]
BEQ P-015, Camp Pendleton, CA	Harper	$19,897,265[12]	9/19/2006
Multi-Battalion Ops Centers, Twentynine Palms, CA	Harper	$48,147,265[13]	9/25/2008

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[5] Federal Business Opportunities: https://www.fbo.gov/?s=opportunity&mode=form&tab=core&id=c6c96d344facae269e37aad1516214ae&_cview=0

[6] Federal Business Opportunities: https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=033b8de84fbdd85f3e6f3f35afe41dce

[7] Federal Business Opportunities: https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=9ca020ea4fe18566891699b63784753d

[8] Federal Business Opportunities: https://www.fbo.gov/index?s=opportunity&mode=form&tab=core&id=c06ef249a517934bf3ea3ef3dba499ce&_cview=0

[9] Federal Business Opportunities: https://www.fbo.gov/index?s=opportunity&mode=form&id=fd228b8c4baef2a595638f935da02205&tab=core&_cview=1

[10] U.S. Department of Defense: http://www.defense.gov/contracts/contract.aspx?contractid=2932

[11] Department of the Navy: http://www.finance.hq.navy.mil/FMB/07pres/CONSTR/MILCON&FH_OPS_Book.pdf

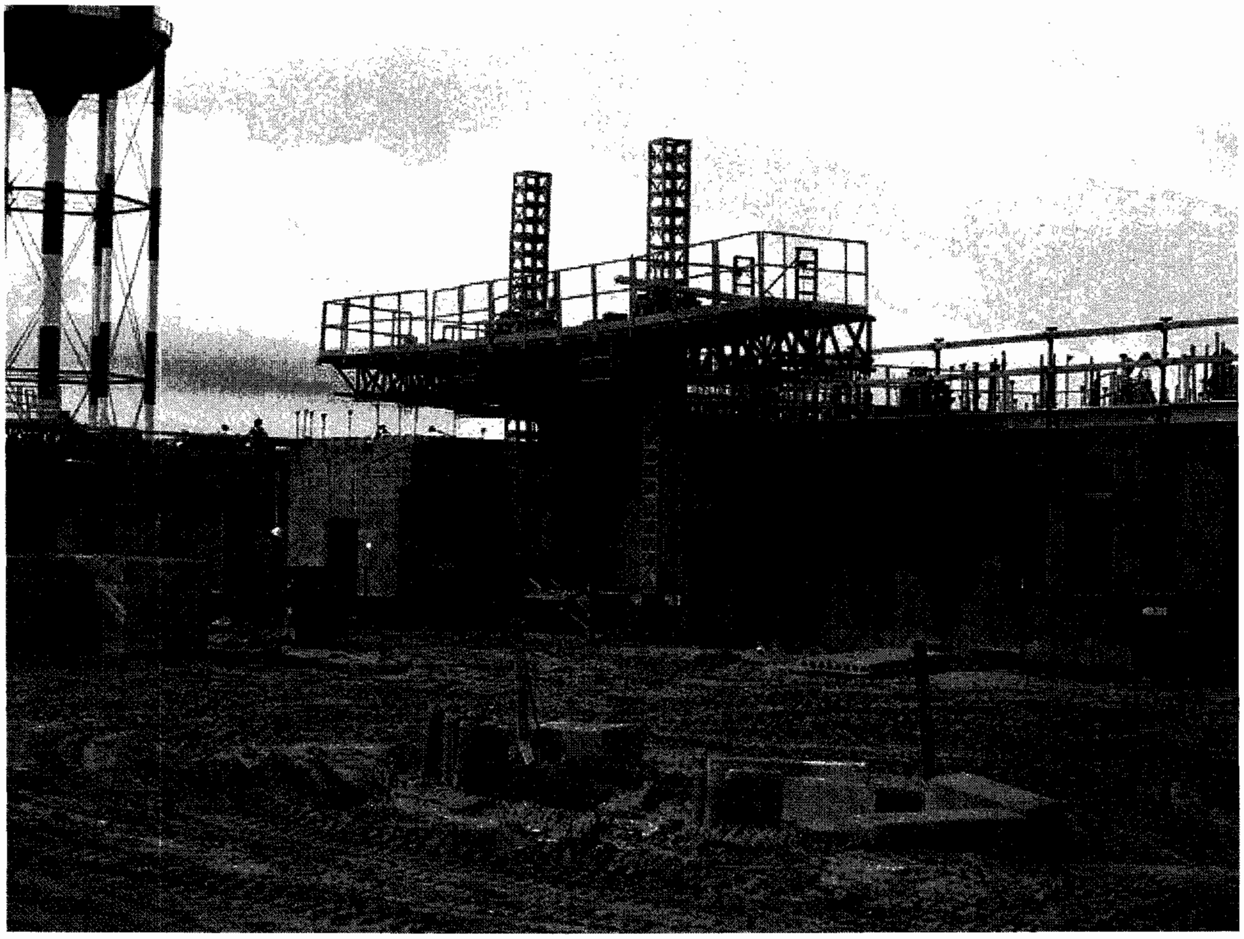
[12] U.S. Department of Defense: http://www.defense.gov/Contracts/Contract.aspx?ContractID=3341

[13] The initial value of the prime contract was $41,314, 465, but included two options, later exercised by Harper, which increased the value. U.S. Department of Defense: http://www.defense.gov/contracts/contract.aspx?contractid=3870; http://www.defense.gov/contracts/contract.aspx?contractid=4078

97. According to admissions made by Frazier Masonry personnel, some or all of the foregoing projects listed in the preceding paragraph were contracted to sham small businesses owned or controlled by Frazier Masonry (or Russ Frazier individually), but were performed entirely by Frazier Masonry. These sham small business arrangements were put in place in order to fulfill Small Business Plan Subcontracting requirements.

98. Frazier Masonry has posted on its Flickr account (an internet based photo sharing site), numerous photographs that show Frazier Masonry was the entity that actually performed the sham subcontracts.

99. P1251 & P1254 BEQ Courthouse Bay – MCB Camp Lejune, NC:



http://www.flickr.com/photos/36439907@N08/7902863782/sizes/z/in/set-72157631342352964/

Frazier has posted at least 6 photos from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157631342352964/

100. P1069 Recruit Barracks - Camp Pendleton MCB, CA:

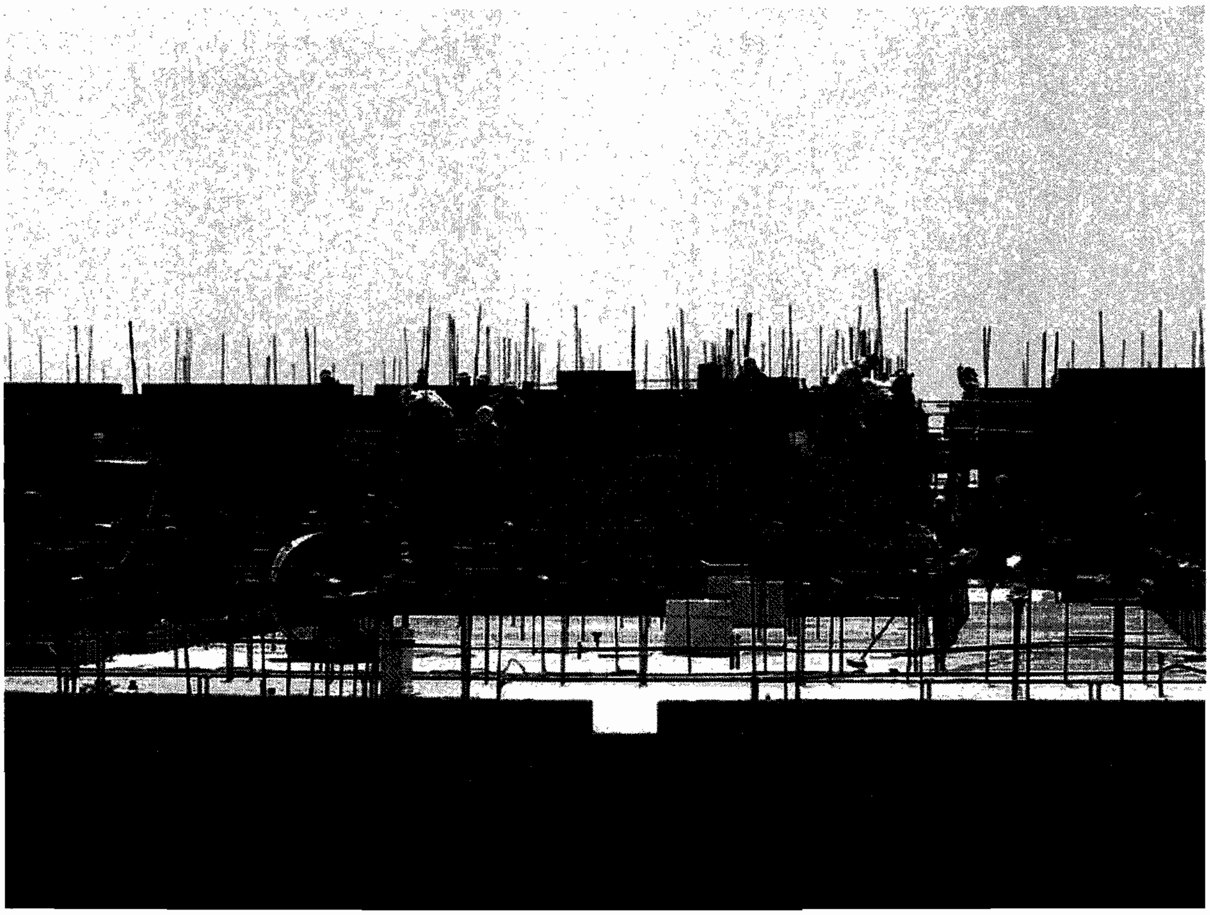
http://www.flickr.com/photos/36439907@N08/6980267123/sizes/m/in/set-72157629579427791/

Frazier Masonry has posted at least 16 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157629579427791/

http://www.flickr.com/photos/36439907@N08/sets/72157629214857108/

101. BEQ Package 1 Pendleton:



http://www.flickr.com/photos/36439907@N08/4226435669/sizes/z/in/set-72157622094899405/

Frazier Masonry has posted at least 16 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157622094899405/

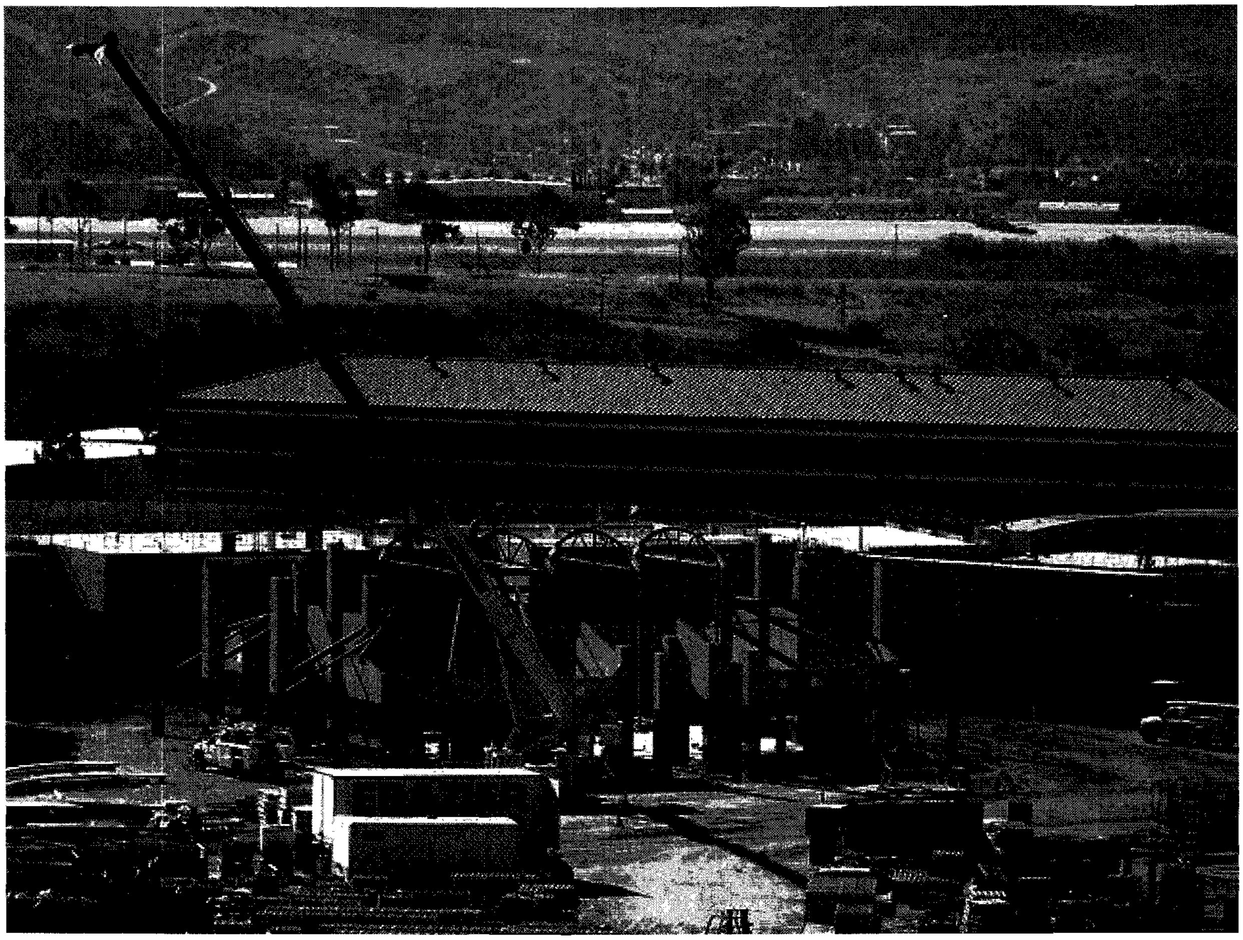
102. USMC BEQ Package 5 – Camp Pendleton, CA:

http://www.flickr.com/photos/36439907@N08/4765906236/sizes/z/in/set-72157624305309895/

Frazier Masonry has posted at least 21 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157624305309895/

103. USMC BEQ Package 6 Margarita – Camp Pendleton, CA:

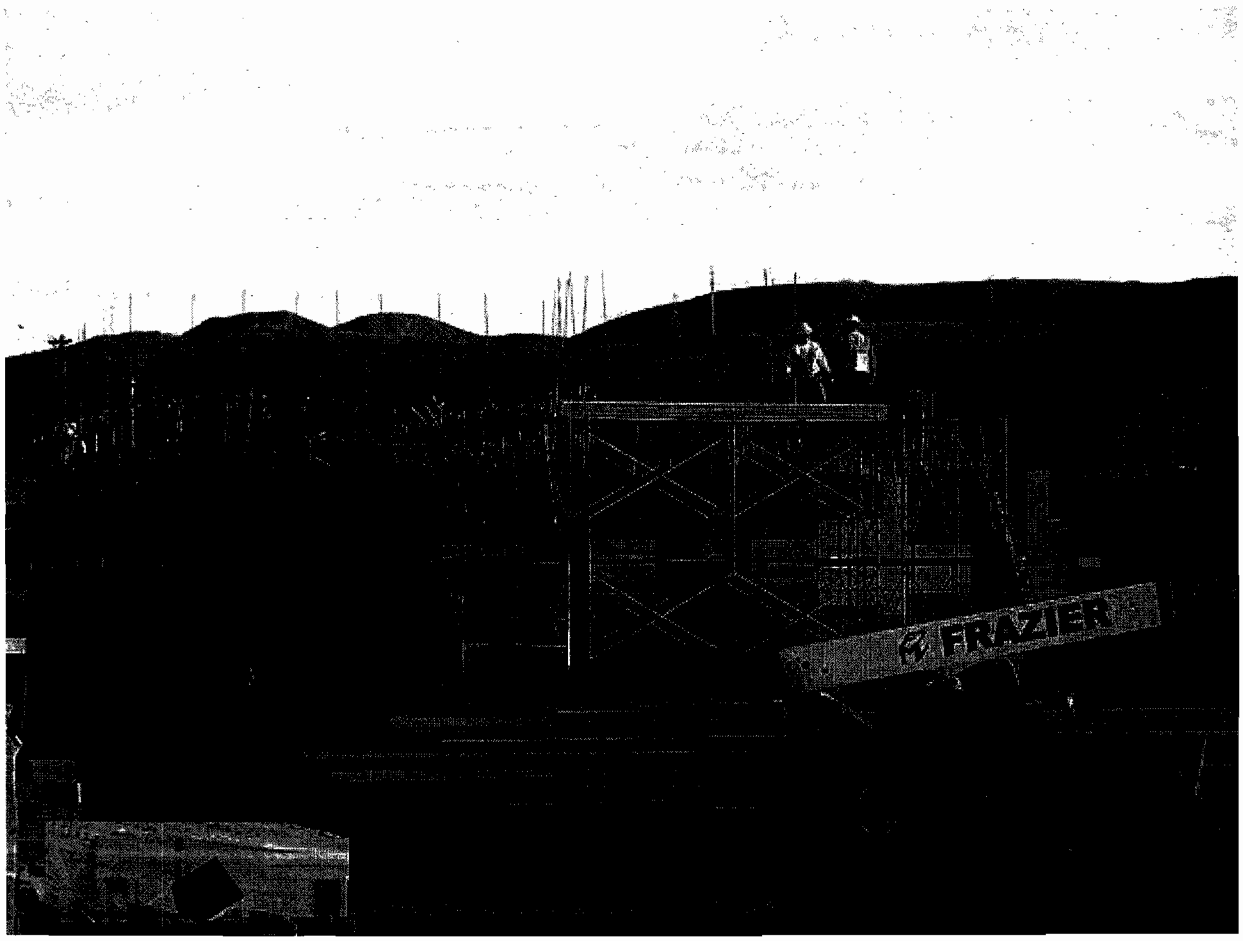


http://www.flickr.com/photos/36439907@N08/4945264553/sizes/z/in/set-72157624725131977/

Frazier Masonry has posted at least 11 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157624725131977/

104. P-206/P-028 BEQ & Dining Facility:



http://www.flickr.com/photos/36439907@N08/3381968715/sizes/z/in/set-72157615849675594/

Frazier has posted at least 11 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157615849675594/

105. Child Development Center P-601 – Camp Pendleton, CA:

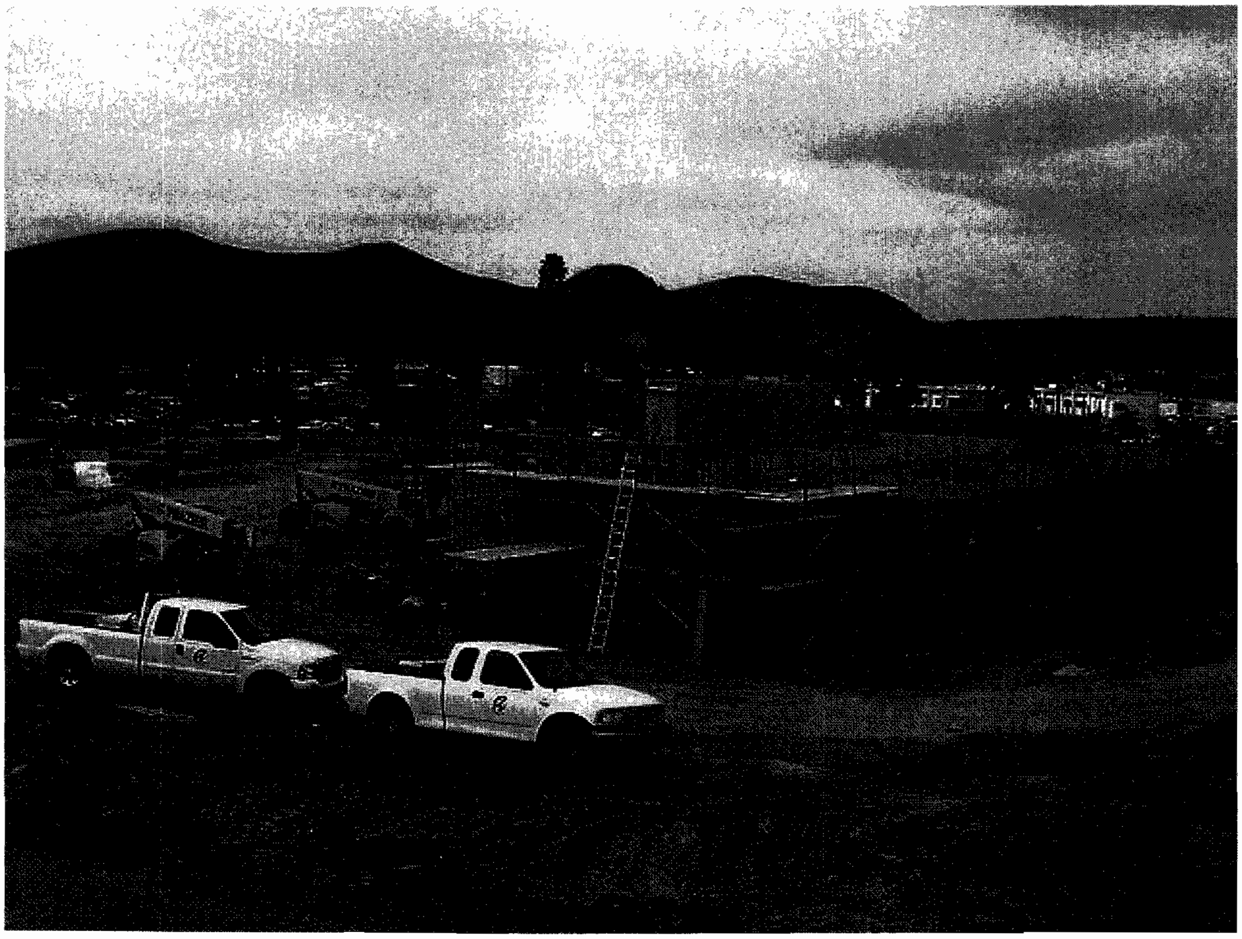
http://www.flickr.com/photos/36439907@N08/4746431242/sizes/z/in/set-72157624385355252/

Frazier Masonry has posted at least 14 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157624385355252/

http://www.flickr.com/photos/36439907@N08/sets/72157624459205102/

106. BEQ P-991 Chappo Area 22:



http://www.flickr.com/photos/36439907@N08/3382685436/sizes/z/in/set-72157615761916227/

Frazier Masonry has posted at least 5 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157615761916227/

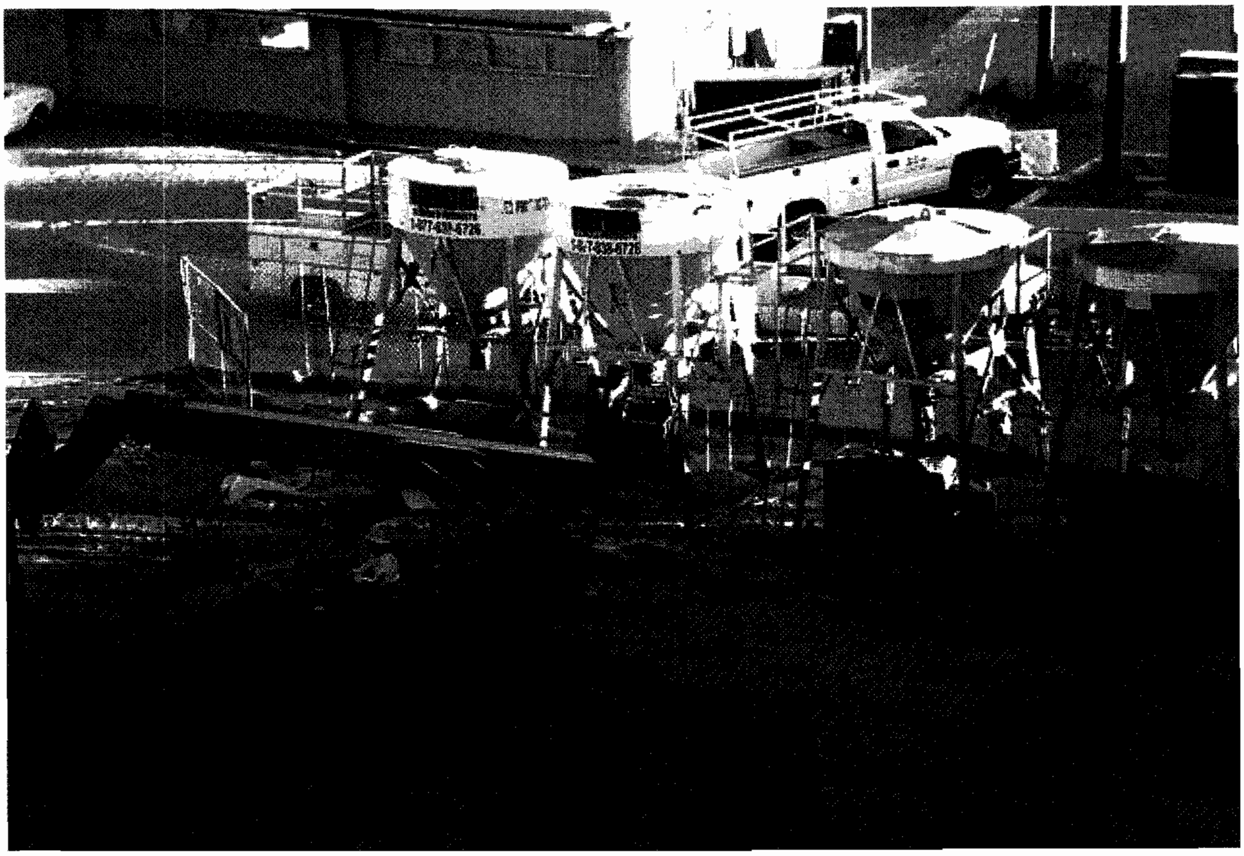
107. BEQ P-015:

http://www.flickr.com/photos/36439907@N08/3380421820/sizes/z/in/set-72157615817169702/

Frazier Masonry has posted at least 4 photographs from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157615817169702/

108. Multi-Battalion Ops Centers:



http://www.flickr.com/photos/36439907@N08/4309507783/sizes/z/in/set-72157623172884563/

Frazier Masonry has posted at least 10 photos from this job site:

http://www.flickr.com/photos/36439907@N08/sets/72157623172884563/with/4309509261/

VI. ACTIONABLE CONDUCT BY DEFENDANTS UNDER THE FALSE CLAIMS ACT

109. This is an action to recover damages and civil penalties on behalf of the United States and Relator Howard arising from the false and/or fraudulent statements, claims, and acts by Defendants made in violation of the False Claims Act, 31 U.S.C. §§3729–3732.

110. Based on these relevant FCA provisions, Relator Howard, on behalf of the United States Government, seeks through this action to recover damages and civil penalties arising from Defendants' submission and/or causation of the submission of false claims to the federal government. The United States has suffered significant harms and damages as a result of entering into the Courthouse Bay contract with Harper Construction based up the false representations by Harper Construction and its subcontractors, including but not limited to Frazier Masonry and F-Y, and the false claims for payment submitted thereon, *and* that the United States similarly has suffered significant harms and damages by virtue of near-identical schemes perpetrated against the Government by the same actors with respect to military construction contracts at Camp Pendleton and other facilities elsewhere in the United States.

A. The False Claims Act

111. For conduct occurring before May 20, 2009, the False Claims Act ("FCA") provides in pertinent part that:

(a) Any person who:

> presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;
>
> (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or

approved by the Government;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

* * *

(7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

is liable to the Government for a civil penalty of not less than $5,500 and not more than $11,000 for each such claim, plus three times the amount of damages sustained by the Government because of the false or fraudulent claim. 31 U.S.C. §3729(a). The FCA defined "claim" at that time to include: "any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded." 31 U.S.C §3729(c).

112. For conduct occurring on or after May 20, 2009, the FCA provides that any person who:

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim (except that this language applies to all claims pending on or after June 7, 2008);

(C) conspires to defraud the Government by committing a violation of the FCA;

(D) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal material to an obligation to pay or transmit money or property to the Government

* * *

(G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the Government for a civil penalty of not less than $5,500 and not more than $11,000 for each such claim, plus three times the amount of damages sustained by the Government because of the false or fraudulent claim. 31 U.S.C. §3729(a)(1).

113. The amended FCA defines "claim" as:

> (A) mean[ing] any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that--
>
> (i) is presented to an officer, employee, or agent of the United States; or
>
> (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government--
>
> (I) provides or has provided any portion of the money or property requested or demanded; or
>
> (II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded . . .

114. The FCA allows any persons having knowledge of a false or fraudulent claim against the Government to bring an action in Federal District Court for themselves and for the United States Government and to share in any recovery as authorized by 31 U.S.C. §3730.

B. Defendants Submitted False and/or Fraudulent Claims for Payment to the Federal Government and/or Caused Entities to Submit False and/or Fraudulent Claims for Payment

115. From at least approximately 2007 forward, Harper Construction represented, warranted and certified, expressly and/or impliedly, to the United States that it was fully

compliant with the small business concern subcontracting requirements contained within the Federal Acquisition Regulations and with all federal laws, including but not limited to the Anti-Kickback Act, 41 U.S.C. §53. For example, in the context of the Courthouse Bay Contract Award, NAVFAC Mid-Atlantic Solicitation Number: N40085-11-C-4009, Harper Construction represented, warranted, and certified, expressly and/or impliedly, to the United States that it was fully compliant with the subcontracting requirements on the basis that it utilized F-Y to fulfill the Veteran-Owned Small Business (VOSB) concern subcontract requirements, and/or the Service Disabled Veteran-Owned Small Business (SDVOSB) concern subcontract requirements – notwithstanding that F-Y was a sham "Small Business" company, and a puppet of Frazier Masonry which had been created to fool the Government.

116. The United States has been harmed by the foregoing conspiracy of the Defendants to create sham companies to fulfill the small business concern Subcontracting Plan requirements of its federal construction projects, including NAVFAC Mid-Atlantic Solicitation Number: N40085-11-C-4009, and other contracts at Camp Pendleton, and by the false and fraudulent claims submitted by the corporate defendants Harper Construction, Frazier Masonry, F-Y, ABC Corporations 1 through 10, and with regard to other small business concern Subcontracting Plan requirements of federal construction projects – as admitted to by management and principals of the Defendants – as the evidence will show.

117. All of the contracts awarded by the Government, including NAVFAC Mid-Atlantic, Solicitation Number: NAVFAC Mid-Atlantic Solicitation Number: N40085-11-C-4009, and other Government contracts including Harper Construction contracts at

Camp Pendleton for which Frazier Masonry actually performed the masonry subcontracts, and otherwise as the evidence will show, are tainted by the fraud, and therefore the damages are the full amount of the contracts so awarded based upon these frauds.

118. Given the structure of the government contracting system, false statements, false representations, false records, and/or material omissions made by Defendants had the potential to influence the payment decisions of the federal government. Because of the illegal acts described above, Defendants made hundreds of millions of dollars to which they were not legitimately entitled. The ultimate submission to the federal government of claims for payment was a foreseeable factor in the Government's loss, and a consequence of the scheme. Consequently, the United States Government has suffered substantial damages.

C. Defendants Made, Used, or Caused to be Made or Used False Records and/or Statements to Receive Payment

119. Defendants knowingly made, used or caused to be made or used, false records or statements with specific intent to cause false and/or fraudulent claims to be paid or approved by the United States. These false statements or records consist of false certifications or representations, express and/or implied, of compliance with all laws, including but not limited to the small business concern subcontracting requirements contained within the Federal Acquisition Regulations and the Anti-Kickback Act, 41 U.S.C. §53, made or caused to be made by Defendants, in requesting payments from the federal government for performing the contracts at issue in this case.

120. Given the structure of the government contracting system at issue, given the Defendants' false statements and representations, and given the false records and/or

statements and/or material omissions that the Defendants made, used, or caused to be made or used, the Defendants' conduct had the potential to influence the payment decisions of the federal government.

121. The ultimate submission to the federal government of claims for payment, directly or indirectly, was a foreseeable factor in the Government's losses, and a consequence of the schemes. Consequently, the United States Government has suffered substantial damages.

D. Defendants Conspired to Commit Violations of the False Claims Act

122. By virtue of planning, and then implementing, their schemes to create sham small business companies to fulfill the Subcontracting Plan requirements, Defendants conspired and confederated to commit violations of the False Claims Act, 31 U.S.C. §3729, including having conspired and confederated to have knowingly presented false or fraudulent claims for payment or approval; having knowingly made, used, or caused to be made or used false records or statements material to false or fraudulent claims; and having knowingly made, used, or caused to be made or used, false records or statements material to an obligation to pay or transmit money or property to the Government, or knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit money or property to the Government. The United States has suffered substantial damages as a result of the perpetration of Defendants' conspiracies.

E. Defendants Failed to Disclose Their Obligation to Repay the Federal Government in Violation of the Reverse False Claims Provisions of the False Claims Act

123. In further consequence of the Defendants' fraudulent schemes in connection with the creation of sham small business companies used to fulfill federal subcontracting

requirements, the Defendants knowingly made, used, or caused to be made or used, false records and/or statements to conceal, avoid, or decrease an obligation to pay (or to reimburse) money to the Government. These false statements and/or records include but are not limited to false certifications or representations, express and/or implied, of compliance with all laws, including but not limited to the small business concern subcontracting requirements contained within the Federal Acquisition Regulations and the Anti-Kickback Act, 41 U.S.C. §53, made or caused to be made by the Defendants in obtaining the contract awards and/or in obtaining payment thereon.

124. By virtue of the false records and/or statements that Defendants made, used, or caused to be made or used or material omissions by Defendants, the United States has suffered substantial monetary damages.

FIRST CLAIM FOR RELIEF
(FALSE CLAIMS – 31 U.S.C. §3729(a)(1)(A))

125. The allegations of all paragraphs in this Complaint are incorporated by reference.

126. In performing the acts described above, Defendants individually by and through their own acts, or through the acts of their agents, servants, officers and employees, knowingly and/or recklessly presented, or caused to be presented, to an officer or employee of the United States Government, false or fraudulent claims for payment or approval in violation of 31 U.S.C. §3729(a)(1)(A). Defendants represented, warranted and/or certified, expressly and/or impliedly, to the United States that they were fully compliant with all federal laws, including but not limited to the small business concern subcontracting requirements contained within the Federal Acquisition Regulations and the Anti-Kickback Act, 41 U.S.C. §53.

127. Based upon the Defendants' representations in their Subcontracting Plan, the

United States awarded the Courthouse Bay BEQ Project, NAVFAC Mid-Atlantic Solicitation Number: N40085-11-R-4009, to Harper Construction, and made full payments thereon. Similarly, the United States awarded to Harper Construction projects at Camp Pendleton, California, and other military facilities, and made full payments thereon, based on representations made by Defendants in the Subcontracting Plans submitted for those other projects, as set forth herein above. The Defendants' conduct has resulted in the United States being damaged in amounts to be determined.

SECOND CLAIM FOR RELIEF
(FALSE STATEMENTS – 31 U.S.C. §3729(a)(1)(B))

128. The allegations of all paragraphs in this Complaint are incorporated by reference.

129. In performing the acts described above, Defendants individually by and through their own acts, or through the acts of their agents, servants, officers and employees, knowingly made, used, or caused to be made or used, false records or statements to get false or fraudulent claims paid or approved by the Government in violation of 31 U.S.C. §3729(a)(1)(B). Defendants represented, warranted and/or certified, expressly and/or impliedly, to the United States that they were fully compliant with all federal laws, including but not limited to the small business concern subcontracting requirements contained within the Federal Acquisition Regulations and the Anti-Kickback Act, 41 U.S.C. §53.

130. Based upon the Defendants' representations in their Subcontracting Plan, the United States awarded the Courthouse Bay BEQ Project, NAVFAC Mid-Atlantic Solicitation Number: N40085-11-R-4009, to Harper Construction, and made full payments thereon. Similarly, the United States awarded to Harper Construction projects at Camp Pendleton, California, and other military facilities, and made full payments

thereon, based on representations made by Defendants in the Subcontracting Plans submitted for those other projects, as set forth herein above. The Defendants' conduct has resulted in the United States being damaged in amounts to be determined.

THIRD CLAIM FOR RELIEF
(CIVIL CONSPIRACY TO COMMIT VIOLATIONS OF THE FALSE CLAIMS ACT – 31 U.S.C. §3729(a)(1)(C))

131. The allegations of all paragraphs in this Complaint are incorporated by reference.

132. The Defendants conspired and confederated to commit violations of the False Claims Act, 31 U.S.C. §3729, including having conspired and confederated to have knowingly presented false or fraudulent claims for payment or approval; having knowingly made, used, or caused to be made or used false records or statements material to false or fraudulent claims; and having knowingly made, used, or caused to be made or used, false records or statements material to an obligation to pay or transmit money or property to the Government, or knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit money or property to the Government.

133. Based upon the Defendants' representations in their Subcontracting Plan, the United States awarded the Courthouse Bay BEQ Project, NAVFAC Mid-Atlantic Solicitation Number: N40085-11-R-4009, to Harper Construction, and made full payments thereon. Similarly, the United States awarded to Harper Construction projects at Camp Pendleton, California, and other military facilities, and made full payments thereon, based on representations made by Defendants in the Subcontracting Plans submitted for those other projects, as set forth herein above. The Defendants' conduct has resulted in the United States being damaged in amounts to be determined.

134. Defendants further conspired and confederated to commit violations of the False Claims Act, 31 U.S.C. §3729, including having conspired and confederated to have knowingly presented false or fraudulent claims for payment or approval; having knowingly made, used, or caused to be made or used false records or statements material to false or fraudulent claims; and having knowingly made, used, or caused to be made or used, false records or statements material to an obligation to pay or transmit money or property to the Government, or knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit money or property to the Government, with respect to government construction projects at Camp Pendleton, California, and other military facilities, as set forth herein above.

135. The United States, unaware of the foregoing circumstances and conduct of the Defendants and their conspiracy, awarded construction projects to Defendants at Camp Pendleton, California, and other military facilities, as set forth herein above, and made full payments thereon, which has resulted in its being damaged in amounts to be determined.

FOURTH CLAIM FOR RELIEF
(REVERSE FALSE CLAIMS – 31 U.S.C. §3729(a)(1)(G))

136. The allegations of all paragraphs in this Complaint are incorporated by reference.

137. In performing the acts described above, Defendants knowingly used false records and statements to conceal the obligation to reimburse the federal Government for monies improperly retained, in violation of 31 U.S.C. §3729(a)(1)(G). Defendants represented, warranted and/or certified, expressly and/or impliedly, to the United States that they were fully compliant with all federal laws, including but not limited to the small business concern subcontracting requirements contained within the Federal Acquisition

Regulations and the Anti-Kickback Act, 41 U.S.C. §53.

138. Through Defendants' actions of improperly retaining funds to which they are not entitled, the United States has been deprived of the use of these monies and is entitled to recover damages in amounts to be determined.

FIFTH CLAIM FOR RELIEF
(VIOLATION OF THE ANTI-KICKBACK ACT, 41 U.S.C. §53)

139. The allegations of all paragraphs in this Complaint are incorporated by reference.

140. Harper Construction, as prime contractor to the United States Government, illegally and unlawfully offered and then provided kickbacks to Frazier Masonry and/or F-Y in connection with the Courthouse Bay BEQ Project, and with respect to projects at Camp Pendleton, California.

141. Frazier Masonry and/or F-Y, illegally and unlawfully accepted kickbacks offered and paid to them by Defendant Harper Construction, prime contractor to the United States Government, in connection with the Courthouse Bay BEQ Project, and with respect to projects at Camp Pendleton, California.

142. Based upon the Defendants' representations in their Subcontracting Plan, the United States awarded the Courthouse Bay BEQ Project, NAVFAC Mid-Atlantic Solicitation Number: N40085-11-R-4009, to Harper Construction, and made full payments thereon. Similarly, the United States awarded to Harper Construction projects at Camp Pendleton, California, and other military facilities, and made full payments thereon, based on representations made by Defendants in the Subcontracting Plans submitted for those other projects, as set forth herein above. The Defendants' conduct has resulted in the United States being damaged in amounts to be determined.

PRAYER FOR RELIEF

Relator Howard, on behalf of himself and the United States Government, prays as follows:

1. That for violations of the Federal False Claims Act, 31 U.S.C. §3729, *et seq.*, this Court enter Judgment against the Defendants, jointly and severally, in an amount equal to three times the amount of damages the United States Government has sustained because of Defendants' actions, plus a civil penalty of $11,000 for each action in violation of 31 U.S.C. §3729, and the costs of this action, with interest, including the costs to the United States Government for its expenses related to this action;
2. That the Relator Howard be awarded all costs incurred, including reasonable attorneys' fees;
3. That, in the event the United States Government, continues to proceed with this action, the Relator Howard be awarded an amount that the Court decides is reasonable for collecting the civil penalty and damages in the amount of 25% of the proceeds of the action or settlement of the claim, or the maximum allowed under applicable law;
4. That, in the event that the United States, does not proceed with this action, the Relator Howard be awarded an amount that the Court decides is reasonable for collecting the civil penalty and damages in the amount of 30% of the proceeds of the action or the settlement, or the maximum allowed under applicable law;
5. That Relator Howard be awarded all costs of this action, together with all expert witness fees, attorneys' fees, and court costs, as fully as is allowed by law;
6. That a trial by jury be held on all issues; and
7. That the United States Government, and the Relator Howard, receive all relief, both in

law and in equity, to which they may reasonably appear entitled.

This the 30th day of January, 2013.

Respectfully Submitted,

Charles H. Rabon, Jr.
N.C. State Bar No. 16800
CLTAtty@gmail.com
Rabon Law Firm, PLLC
225 E. Worthington Avenue, Suite 100
Charlotte, NC 28203
Tel. 704-247-3247
Fax 704-347-0684
Attorneys for Plaintiff

OF COUNSEL:

Joel Androphy
Texas State Bar No. 01254700
JAndrophy@bafirm.com
Sarah M. Frazier
Texas Bar No. 24027320
SFrazier@bafirm.com
Rachel L. Grier
Texas Bar No. 24055592
RGrier@bafirm.com
Berg & Androphy
3704 Travis Street
Houston, Texas 77002-9550
Tel.713-529-5622; Fax 713-529-3785

Matt Abbott
Alabama Bar No. AASB-3107-P70A
matt@abbottfirm.com
Abbott Law Firm, LLC
308 Martin Street North
Suite 200
Pell City, AL 35125-1727
Tel. 205-338-7800; Fax 205-338-7816

CERTIFICATE OF SERVICE

This is to certify that on this date I served a copy of the foregoing **FIRST AMENDED COMPLAINT and JURY DEMAND** on counsel of record by depositing a copy thereof in the United States Mail, postage prepaid, and addressed as follows:

Neal Fowler
Office of the United States Attorney
310 New Bern Avenue
Federal Building, Suite 800
Raleigh, North Carolina 27601-1461

Andrew Steinberg
U.S. Department of Justice
Civil Division – Fraud Section
601 D. Street NW, Room 9030
Washington, DC 20004

This the 30th day of January, 2013.

Charles H. Rabon, Jr.